

1
2
3
4
5
6 IN THE UNITED STATES DISTRICT COURT
7
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9

10 UNITED STATES OF AMERICA,

No. CR 08-0730 WHA

11 Plaintiff,

12 v.

ORDER RE EX PARTE MOTIONS


13 IVAN CERNA, et al.,

14 Defendants.
15 _____/

16
17 Attorney Martin Sabelli, counsel for defendant Herrera, has filed two *ex parte* and under
18 seal motions with accompanying materials. Counsel seeks to keep both motions *ex parte* and
19 under seal and, in one motion, seeks leave to defer an issue until after a deadline of September
20 30, 2009, in the final scheduling order. Contrary to Attorney Sabelli, this date is not a deadline
21 for the filing of any superseding indictment but rather is a date by which “any additional
22 charges added to this case . . . shall be presumptively severed.”

23 The motions are **DENIED**. Although narrowly tailored sealing requests will be
24 considered where good cause is shown, and *ex parte* proceedings are allowed on very rare
25 occasions, counsel has cited no authority, and the Court knows of none, by which the type of
26 secret proceedings requested by Attorney Sabelli would be permitted. *See, e.g.*, Crim. Local
27 Rule 55-1(b); *United States v. Abuhamra*, 389 F.3d 309, 328–29 (2d Cir. 2004). This is
28 particularly true given that one purpose of the exercise appears to be to sandbag the government
until it allegedly is too late to cure an alleged flaw in the indictment.

IT IS SO ORDERED.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE